

SENATE BILL 438

By Overbey

AN ACT to amend Tennessee Code Annotated, Title 38;
Title 39; Title 40 and Title 41, relative to the board
of probation and parole.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as "Amelia Keown's law".

SECTION 2. Tennessee Code Annotated, Section 40-28-105, is amended by deleting subsection (d) in its entirety and by substituting instead the following language:

(d)

(1) Five (5) members of the board shall constitute a quorum for official administrative business.

(2) The chair of the board may designate individual members of the board of probation and parole and appoint hearing officers who shall be authorized to conduct hearings, take testimony and make proposed findings of fact and recommendations to the board regarding a grant, denial, revocation or rescission of parole. The findings and recommendations shall be reduced to writing and reviewed by board members who shall adopt, modify or reject the recommendations.

(3) The grant of parole shall require the concurrence of four (4) board members.

(4) The denial of parole shall require the concurrence of four (4) board members.

(5) The rescission of a parole grant shall require the concurrence of two (2) board members.

(6) The revocation of a parole grant shall require the concurrence of two (2) board members.

(7) No board action shall be invalid because it is based upon the recommendation of a hearing officer.

(8) The administrative continuance of a case will not require board approval.

(9) Inmates whose parole has been revoked or rescinded, or who have been denied parole, or whose grant of parole has been rescinded, may request an appellate review by the board. The board shall establish a reasonable time limit for filing of the request. If the time limit is not met, the request for an appellate review will be denied. An appellate request will be screened by a board member or designee and a review will be conducted if there is new evidence or information that was not available at the time of the hearing, or if there are allegations of misconduct by the hearing officer that are substantiated by the record or if there were significant procedural errors by a hearing officer. The appellate review will be conducted from the record of the first hearing and the appearance of the inmate will not be necessary. If a board member decides that an appearance hearing is necessary, it will be scheduled before a board member or hearing officer who did not conduct the hearing that is the subject of the appeal. A summary of the appellate hearing will be prepared and the board will vote after a review of the summary and the record of the first hearing. The decision after an appellate review will require the concurrence of four (4) board members. The decision rendered after an appellate review will be final.

SECTION 3. Tennessee Code Annotated, Section 40-28-119, is amended by deleting the section in its entirety and by substituting instead the following language:

40-28-119

(a) The board shall cause to be kept records which may include social, physical, mental, psychiatric and criminal information for every inmate considered for or released.

(b) The board may make rules, as it deems proper, as to the privacy of the record and of the records of its employment bureau, and their use by others than the board and its staff.

(c) The following information may be contained in the board's file and shall not be considered confidential:

(1) Probation or parole officer's statements accompanying violation reports; and

(2) Statements of public officials including the district attorney general in support of or in opposition to the grant or denial of parole.

SECTION 4. This act shall take effect July 1, 2013, the public welfare requiring it.